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Via Certified Mail
- Return Receipt Requested

March 5, 2015

Nadeem Majaj, Director
Mark Wiley, Water and Sewer Manager
City of Chino Hills
Department of Public Works
14000 City Center Drive
Chino Hills, CA 91709

City Council
City of Chino Hills
14000 City Center Drive
Chino Hills, CA 91709

Re: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Mr. Majaj, Mr. Wiley, City Council Members or Head of Agency:

STATUTORY NOTICE

This Notice is provided on behalf of California River Watch ("River Watch") in regard to violations of the Clean Water Act ("CWA" or "Act"; 33 U.S.C. § 1251 *et seq.*) that River Watch believes are occurring through the operation of the City of Chino Hills wastewater collection system. River Watch hereby places the City of Chino Hills, (hereinafter referred to as "the City"), on notice that following the expiration of 60 days from the date of this Notice, River Watch will be entitled under CWA § 505(a), 33 U.S.C. § 1365(a), to bring suit in the United States District Court against the City for continuing violations of an effluent standard or limitation, permit condition or requirement, or a Federal or State Order or Permit issued under CWA § 402 pursuant to CWA § 301(a), and the Santa Ana Regional Water Quality Control Board, Water Quality Control Plan ("Basin Plan"), as exemplified by the illegal discharges of untreated sewage from the City's wastewater collection system to United States waters without a National Pollutant Discharge Elimination System ("NPDES") Permit.

River Watch takes this action to ensure compliance with the CWA which regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharges of pollutants are prohibited with the exception of enumerated statutory provisions. One such exception authorizes a polluter, who has been issued a permit pursuant to CWA § 402, to discharge designated pollutants at certain levels subject to

certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the CWA § 301(a), 33 U.S.C. § 1311(a) prohibition, such that violation of a permit limit places a polluter in violation of the CWA. Currently, the City is not in possession of a NPDES permit allowing it to discharge pollutants to waters of the United States. Therefore, by virtue of its discharge of untreated sewage to United States waters without a NPDES permit, the City has been and continues to be in violation of CWA § 301(a), 33 U.S.C. § 1311(a).

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the Environmental Protection Agency (“EPA”) to a state or to a regional regulatory agency, provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria (*see* 33 U.S.C. § 1342(b)). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board (“SWRCB”) and several subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating the City’s operations of its wastewater collection system in the region at issue in this Notice is the Santa Ana Regional Water Quality Control Board (“RWQCB”).

While delegating authority to administer the NPDES permitting system, the CWA provides that enforcement of the Act can be ensured by private parties acting under the citizen suit provision of the statute (*see* 33 U.S.C. § 1365). River Watch is exercising such citizen enforcement to enforce compliance by Chino Hills with the CWA.

NOTICE REQUIREMENTS

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

1. *The specific standard, limitation, or order alleged to have been violated.*

River Watch has identified discharges of raw sewage from the City’s wastewater collection system to surface waters in violation of the prohibition of the CWA with regard to discharging a pollutant from a point source to waters of the United States without a NPDES permit, CWA § 301(a), 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f).

2. *The activity alleged to constitute a violation.*

River Watch sets forth narratives in this Notice describing the discharges of raw sewage to surface waters as the activities leading to violations, and describes with particularity specific incidents referenced in the California Integrated Water Quality

System (“CIWQS”) SSO Public Reports and other public documents in the City’s possession or otherwise available to the City, and incorporates by reference records cited from which descriptions of specific incidents were obtained. Additional records and other public documents in the City’s possession or otherwise available to the City may, upon discovery, reveal additional violations.

River Watch contends that from January 7, 2010 to January 7, 2015, Chino Hills violated the CWA, the Basin Plan and the Code of Federal Regulations by discharging pollutants to waters of the United States from its collection system without a NPDES permit. Said violations are evidenced by the CIWQS SSO Reporting Program Database Records. Furthermore, River Watch contends these violations are continuing.

A. Collection System Subsurface Discharges Caused By Underground Exfiltration

Underground discharges in which untreated sewage is discharged from the City’s collection system prior to reaching wastewater treatment facilities are alleged to have been continuous throughout the period of January 7, 2010 through January 7, 2015 (1825 separate violations), in violation of the CWA provisions that prohibit discharge of wastes to United States waters without an NPDES permit, CWA § 301(a), 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f).

Exfiltration caused by root intrusion, cracks, misalignments and other structural defects in the collection system result in discharges to adjacent surface waters via underground hydrological connections. The City’s internal reports indicate discharges to surface water not reported to the CIWQS. Because the entire system has not been adequately inspected by means of closed circuit television (“CCTV”), the City has insufficient information concerning the condition or the extent of exfiltration for a significant portion of the collection system. These sections of the system are old and in need of repair. Untreated sewage is discharged from cracks, displaced joints, eroded segments, etc., into groundwater that is hydrologically connected to surface waters. Evidence indicates exfiltration from lines within 200 feet of a surface water.

River Watch alleges that such discharges are continuous wherever damaged, and/or structurally defective sewer lines in the City’s collection system are located adjacent to surface waters, including Hickory Creek, Chino Creek and Carbon Canyon Creek – tributaries to the Santa Ana River. Surface waters and groundwater become contaminated with fecal coliform, exposing people to pathogens. Chronic failures in the collection system pose a substantial threat to public health. Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines in other systems have verified the contamination of the adjacent waters with untreated sewage.

Evidence to support the allegation of underground discharge of raw sewage exists in the City's own mass balance data regarding the number of connections in the service area, estimates of average daily volume of wastewater per connection, and video inspection of the collection system. River Watch contends Exfiltration from the City's collection system is a daily occurrence and a violation of the CWA.

B. Collection System Surface Discharges Caused By Sanitary Sewer Overflows

Sanitary Sewer Overflows ("SSOs") in which untreated sewage is discharged above ground from the collection system prior to reaching wastewater treatment facilities are alleged to have occurred both on the dates identified in the CIWQS Interactive Public SSO Reports (9 separate violations) and on dates when no reports were filed by the City. It is estimated by the EPA and private studies that for every SSO reported, there are at least 3 that go unreported. In some cases the overflows occur during storm events or due to stoppages, and there is no incident report made due to lack of any observation of the event. In other cases SSO events are reported, but by the time personnel arrive at the site the overflows have ceased and no follow-up is undertaken. In some cases the incident is reported and observed by staff, but a formal report is not made to the State, in violation of the Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements Order No. 2006-0003-DWQ ("Statewide WDR"), governing the operation of sanitary sewer systems, under which the City is a permittee.

Releases Reported. Overflows caused by blockages and inflow/infiltration ("I/I") result in the discharge of raw sewage into gutters, canals, and storm drains which are connected to adjacent surface waters, such as Chino Creek, Carbon Creek, and Hickory Creek – all waters of the United States.

As recorded in CIWQS Public SSO Reports, the City has self-reported at least 18 SSO events since it began reporting, with a combined volume of at least 265,455 gallons. Of this amount, only 9,065 gallons were reported as being recovered and only 5,765 gallons were reported as "reaching surface waters" despite internal records showing much larger amounts that potentially reached surface waters. For example, on February 28, 2012 there was a spill from the City's collection system with the reported volume of 250,000 gallons. The spill was caused by a pump station failure at the Pomona Rincon lift station at 16500 Pomona Rincon Road. The SSO report states that zero gallons reached a surface water, yet the total volume recovered is also zero. The final spill destination is stated as simply "unpaved surface", and the spill response activities are described as "cleaned-up (mitigated effects of spill)", with no explanation of how the spill was addressed, where the 250,000 gallons of sewage went to, or how the spill volume was estimated. A review of the area of the spill indicates that it reached a surface water. The City has numerous reporting errors such as this one and has failed to correct them.

Estimating Volume. River Watch's expert has determined that the City's method for estimating flow rate also underestimates the volume of a SSO. Furthermore, a review of the service records calls into serious question the City's methodologies for determining the volume of SSOs captured. The Statewide WDR requires that sewer system operators report SSOs to the CIWQS, and include in that reporting an estimate of the volume of any spill, the volume recovered, and the volume which reached a surface water. The City's field reports generally do not indicate what method was used to estimate the total volume of the spill, which further calls into question the estimates of total volume, volume recovered, and volume which reached surface waters. In the February 28, 2012 spill mentioned above, wherein 250,000 gallons was left unaccounted for, the answer to question 35 on the SSO report, "Explanation of volume estimation method used", is "null". The spill is said to have ended 6 hours and 40 minutes before the operator arrival time (which was the day after the spill began), yet there is no accounting for how that time and the total volume was calculated.

Moreover, River Watch believes the City's SSO reporting to be an incomplete and inaccurate representation of the frequency and volume of SSOs. The City has only disclosed one SSO over 1,000 gallons in over 5 years. The same dates and same amounts are listed repeatedly. The first 3 SSOs are all reported as 100 gallons, and the first and second, both reported as occurring on January 9, 2010 at Zenobia Lane (no further address given), and affecting Hickory Creek, appear to be the same SSO with different Event IDs. The City also reported 2 small SSOs on the same date of the following year, (January 9, 2011) at the Big League Dreams Sports Park, caused by a pump station failure, and impacting Chino Creek. These appear to be different spills with start times 5 minutes apart and different latitude/longitude coordinates. However, River Watch alleges that the small reported volume of both spills, 30 gallons – which is also the volume stated for the City's next reported SSO on February 14, 2011 – are significant underestimations of the actual volume that spilled and reached surface waters.

Discharges to Surface Waters. River Watch's expert believes that the February 28, 2012 spill did in fact discharge to surface waters, and that the remaining SSOs reported as having discharged to surface waters did so in greater volumes than stated. The 250,000 gallon spill took place near Chino Creek, yet none of it was reported as reaching surface waters, and the entire volume is unaccounted for. Although the City admits that the full amount of the 8 other reported spills did reach surface waters, a closer look at the City's SSO reports filed since 2010 casts significant doubt on the accuracy of the number of SSOs and total spill volumes reported. River Watch contends that the City regularly underestimates the incidences and volumes of SSOs, as well as the volume which reached surface waters. River Watch believes that much more wastewater was discharged to surface waters than the City has reported.

Mitigating Impacts. The City also fails to adequately mitigate the impacts of SSOs. The Statewide WDR mandates that the permittee shall take all feasible steps to contain and mitigate the impacts of a SSO. The EPA's 'Report to Congress on the Impacts of SSOs' identifies SSOs as a major source of microbial pathogens and oxygen depleting substances. Numerous critical habitat areas exist within the areas of the City's SSOs. The neighboring waterways include Chino Hills State Park, an ecological reserve. There is no record of the City performing any analysis of the impacts of SSOs on critical habitat of protected species under the ESA, nor any evaluation of the measures needed to restore water bodies designated as critical habitat from the impacts of SSOs.

The Statewide WDR requires the City to take all feasible steps and perform necessary remedial actions following the occurrence of a SSO, including limiting the volume of waste discharged, terminating the discharge, and recovering as much of the wastewater as possible. Further remedial actions include intercepting and re-routing of wastewater flows, vacuum truck recovery of the SSO, cleanup of debris at the site, and modification of the collection system to prevent further SSOs at the site. One of the most important remedial measures is the performance of adequate sampling to determine the nature and the impact of the release. As the City is severely under-estimating the volume of SSOs, it is also failing to conduct sampling on SSOs. None of the City's SSOs were followed up by taking water samples, including the 8 spills the City acknowledged as reaching surface waters.

C. Nuisance; Impacts to Beneficial Uses

Discharges by the City as described herein also constitute a nuisance. The term "nuisance" is defined in California Water Code § 13050(m) as anything which meets all of the following requirements: 1) "is injurious to health, or is indecent or offensive to the senses . . . so as to interfere with the comfortable enjoyment of life or property"; 2) "affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal"; and, 3) "occurs during, or as a result of, the treatment or disposal of wastes."

Chino Creek, Carbon Canyon Creek, and the Santa Ana River have many beneficial uses as defined in the RWQCB's Basin Plan. These beneficial uses include municipal supply, groundwater recharge, water contact and non-contact recreation, warm freshwater habitat, wildlife habitat, and habitat for rare, threatened, or endangered species. SSOs reaching these waters cause prohibited pollution by unreasonably affecting their beneficial uses. The Basin Plan adopted by the RWQCB also contains discharge prohibitions which apply to the discharge of untreated or partially treated wastewater. Chapter 5, Section B.1 prohibits the discharge of untreated sewage to any surface water stream, natural or manmade, or to any drainage system intended to convey storm water

runoff to surface water streams. River Watch is understandably concerned regarding the effects of both surface and underground SSOs on critical habitat in and around the Santa Ana River and tributary waters.

Any point source discharge of sewage effluent to waters of the United States must comply with technology based, secondary treatment standards at a minimum, and any more stringent requirements necessary to meet applicable water quality standards and other requirements. Hence, the unpermitted discharge of wastewater from a sanitary sewer system to waters of the United States is illegal under the CWA.

The City's ongoing violations – discharging pollutants to waters of the United States without a NPDES Permit – pose an immediate threat to public health and the environment, both from surface water impacts of overflow SSOs and underground leakage of untreated sewage which impacts both surface and groundwater. Furthermore, the illegal discharge of untreated wastes from the City's collection system is a significant contribution to the degradation of the Santa Ana River, and tributary and nearby waters including Chino Creek, Carbon Canyon Creek, and Hickory Creek, with serious adverse effects on the many beneficial uses of these waters. River Watch members residing and recreating in the area have a vital interest in bringing the City's operation of its wastewater collection system into compliance with the CWA.

3. *The person or persons responsible for the alleged violation.*

The entity responsible for the alleged violations identified in this Notice is the City of Chino Hills, Public Works Department, as the owner and operator of the City of Chino Hills wastewater collection system, identified throughout this Notice as "the City", as well as any of the City's employees responsible for compliance with the CWA and with any applicable state and federal regulations and permits.

4. *The location of the alleged violation.*

The location or locations of the various violations are identified in records created and/or maintained by or for the City which relate to its wastewater collection system as further described in this Notice.

The City of Chino Hills is located within the South Coast hydrologic region, southwest of San Bernardino County, California. The City borders Los Angeles County on the northwest side, Orange County to the south, and Riverside County to the southeast. Other cities that surround Chino Hills are Pomona to the north, Chino to the east, Brea and Yorba Linda to the southwest, and Diamond Bar to the northwest.

Since its incorporation in 1991, the City has grown to a population of 74,799 as of the 2010 census, a 12 percent increase since 2000. The City covers approximately 29,500 acres, or 46 square miles, consisting of rolling hills and valleys.

Chino Hills State Park, an ecological reserve, is located in the hills of the Santa Ana Canyon near Riverside, and is an essential bio-corridor linking wildlife habitats of the Puente-Chino Hills and Santa Ana Mountains. The Park is refuge for more than 200 species of birds and mammals, and a great diversity of reptiles, amphibians, insects, invertebrates, and plants. The Park contains 90 miles of trails and fire roads where residents and visitors may view wildlife, ride horses, hike, and participate in various other outdoor activities. The Park is home to some rare, threatened, or endangered species, including the Least Bells' vireo, California gnatcatcher, and the coastal cactus wren.

The City is one of 8 members of the Inland Empire Utilities Agency ("IEUA"), a wholesale water agency which provides the City with imported water purchased from the Metropolitan Water District of Southern California. The remainder of the City's water supply comes from local surface water, local wells, and recycled water, as well as via the Chino Basin Desalter Authority, the Monte Vista Water District, and the Water Facilities Authority. The IEUA's regional wastewater program includes the collection, treatment, and disposal of municipal wastewater serving approximately 850,000 residents in a 242 square-mile radius of western San Bernardino County. The City's collection system serves a population of approximately 76,131 in the higher density areas of the City, which accounts for the vast majority of the wastewater generated within the City. The City's collection system includes 200 miles of gravity sewer and 3.3 miles of pressure sewer, and conveys all City-collected wastewater to the IEUA for treatment and either reuse or disposal through the IEUA's 4 regional wastewater treatment and reclamation plants.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

River Watch has examined records of the SWRCB and RWQCB as to the City's wastewater collection system for the period from January 7, 2010 to January 7, 2015. Therefore the range of dates covered by this Notice is January 7, 2010 to January 7, 2015. River Watch may from time to time update this Notice to include all violations of the CWA by the City which occur during and after the range of dates currently covered. Some violations are continuous, and therefore each day constitutes a violation.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving notice is California River Watch, referred to herein as "River Watch". River Watch is a 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, with headquarters located in Sebastopol,

California and offices in Los Angeles, California. The mailing address of River Watch's northern California office is 290 S. Main Street, #817, Sebastopol, CA 95472. The mailing address of River Watch's southern California office is 7401 Crenshaw Blvd #422, Los Angeles, CA 90043. River Watch is dedicated to protect, enhance, and help restore surface and ground waters of California including rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna. And to educate the public concerning environmental issues associated with these environs.

River Watch may be contacted via email: US@ncriverwatch.org or through its attorneys. River Watch has retained legal counsel with respect to the issues set forth in this Notice. Please direct all communications to:

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RECOMMENDED REMEDIAL MEASURES

1. DEFINITIONS

- A. *Condition Assessment:* A report that comprises inspection, rating, and evaluation of the existing condition of a sewer collection system. Inspection is based upon closed circuit television ("CCTV") inspections for gravity mains; manhole inspections for structural defects; and inspections of pipe connections at the manhole. After CCTV inspection occurs, pipe conditions are assigned a grade based on the Pipeline Assessment and Certification Program ("PACP") rating system, developed by the National Association of Sewer Service Companies. The PACP is a nationally recognized sewer pipeline condition rating system for CCTV inspections.
- B. *Full Condition Assessment:* A Condition Assessment of all sewer lines in the collection system with the exception of sewer lines located within 200 feet of surface waters.
- C. *Surface Water Condition Assessment:* A Condition Assessment of sewer lines in the collection system located within 200 feet of surface waters, including gutters, canals and storm drains which discharge to surface waters.

- D. *Significantly Defective*: A sewer pipe is considered to be Significantly Defective if its condition receives a grade of 4 or 5 based on the PACP rating system. The PACP assigns grades based on the significance of the defect, extent of damage, percentage of flow capacity restriction, and/or the amount of pipe wall loss due to deterioration. Grades are assigned as follows:

- 5 – Most significant defect
- 4 – Significant defect
- 3 – Moderate defect
- 2 – Minor to moderate defect
- 1 – Minor defect

2. REMEDIAL MEASURES

River Watch believes the following remedial measures are necessary to bring the City into compliance with the CWA and the Basin Plan, and reflect the biological impacts of the City's ongoing noncompliance with the CWA:

A. SEWAGE COLLECTION SYSTEM INVESTIGATION AND REPAIR

- The repair or replacement, within 2 years, of all sewer lines in the City's wastewater collection system located within 200 feet of surface waters, including gutters, canals and storm drains which discharge to surface waters, which have been CCTV'd within the past 10 years and were rated as Significantly Defective.
- Within 2 years, the completion of Surface Water Condition Assessment of sewer lines located within two hundred 200 feet of surface waters which have not been CCTV'd during the past 10 years.
- Within 2 years after completion of the Surface Water Condition Assessment above, the City will:
 - » Repair or replace all sewer lines which have been found to be Significantly Defective;
 - » Repair or replace sewer pipe segments containing defects with a rating of 3 based on the PACP rating system, if such defect resulted in a SSO, or, if the City determines such defects are in close proximity to Significantly Defective segments that are in the process of being repaired or replaced; and,

- » Ensure that sewer pipe segments that contain defects with a rating of 3 based on the PACP rating system that are not repaired or replaced within 5 years after completion of the Surface Water Condition Assessment are re-CCTV'd not more than every 5 years to ascertain the condition of the sewer line segment. If the City determines that the grade-3 sewer pipe segment has deteriorated and needs to be repaired or replaced, such repair or replacement shall be completed within 2 years after the last CCTV cycle.
- Beginning no more than 1 year after completion of the Surface Water Condition Assessment, the City shall commence a Full Condition Assessment to be completed within 7 years. Any sewer pipe segment receiving a rating of 4 or 5 based on the PACP rating system shall be repaired or replaced within 3 years of the rating determination.
- Provision in the City's Capital Improvements Plan to implement a program of Condition Assessment of all sewer lines at least every 5 years. Said program to begin 1 year following the Full Condition Assessment described above.

B. SSO REPORTING AND RESPONSE

Modification of the City's Backup and SSO Response Plan to include in its reports submitted to the CIWQS State Reporting System the following items:

- The method or calculations used for estimating total spill volume, spill volume that reached surface waters and spill volume recovered.
- For Category I Spills, a listing of nearby residences or business owners who have been contacted to attempt to establish the SSO start time, duration, and flow rate, if such start time, duration, and flow rate have not been otherwise reasonably ascertained (such as from a caller who provides information that brackets a given time that the SSO began).
- Taking of photographs of the manhole flow at the SSO site using the San Diego Method array, if applicable to the SSO, or other photographic evidence that may aid in establishing the spill volume.
- Conduction of water quality sampling and testing whenever it is estimated that 50 gallons or more of untreated or partially treated wastewater enters surface waters. Constituents to test for to include: Ammonia, Fecal Coliform, E. coli and a CAM-17 toxic metal analysis. The City shall collect and test samples from 3 locations: the point of discharge, upstream of the point of discharge, and downstream of the point of discharge. If any of these constituents are found at higher levels in the

point of discharge sample or at the downstream sample than in the upstream sample, the City will determine and address the cause of the SSO that enters surface waters, and employ the following measures to prevent future overflows: (a) if the SSO is caused by a structural defect, then immediately spot repair the defect or replace the entire line; or, (b) if the defect is non-structural, such as a grease blockage or vandalism to a manhole cover, then perform additional maintenance or cleaning, and any other appropriate measures to fix the nonstructural defect.

- Creation of website capacity to track information regarding SSOs; or in the alternative, the creation of a link from the City's website to the CIWQS SSO Public Reports. Notification to be given by the City to all customers and other members of the public of the existence of the web based program, including a commitment to respond to private parties submitting overflow reports.
- Performance of human marker sampling on creeks, rivers, wetlands and areas of Chino Creek, Carbon Canyon Creek, and Hickory Creek adjacent to sewer lines to test for sewage contamination from exfiltration.

C. LATERAL INSPECTION/REPAIR PROGRAM

Creation of a mandatory, private sewer lateral inspection and repair program triggered by any of the following events:

- Transfer of ownership of the property if no inspection/replacement of the sewer lateral occurred within 10 years prior to the transfer;
- The occurrence of 2 or more SSOs caused by the private sewer lateral within 2 years;
- A change of the use of the structure served: (a) from residential to non-residential use, (b) to a non-residential use that will result in a higher flow than the current non-residential use, and (c) to non-residential uses where the structure served has been vacant or unoccupied for more than 3 years;
- Upon replacement or repair of any part of the sewer lateral;
- Upon issuance of a building permit with a valuation of \$25,000.00 or more; or,
- Upon significant repair or replacement of the main sewer line to which the lateral is attached.

CONCLUSION

The violations set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the community of the City and along the Santa Ana River. Members of River Watch use the affected watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. Their health, use, and enjoyment of these natural resources are specifically impaired by the City's alleged violations of the CWA as set forth in this Notice.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including a governmental instrumentality or agency, for violations relating to un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), § 1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to \$37,500 per day/per violation for all violations pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. See also 40 C.F.R. §§ 19.1-19.4. River Watch believes this Notice sufficiently states grounds for filing suit in federal court under the "citizen suit" provisions of CWA to obtain the relief provided for under the law.

The CWA specifically provides a **60-day** "notice period" to promote resolution of disputes. River Watch strongly encourages the City to contact River Watch within **20 days** after receipt of this Notice Letter to: (1) initiate a discussion regarding the allegations detailed in this Notice, and (2) set a date for a site visit. In the absence of productive discussions to resolve this dispute, or receipt of additional information demonstrating that the City is in compliance with the strict terms and conditions of the CWA, River Watch intends to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,


Jack Silver

JS:lhbm

cc:

Administrator

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